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BEFORE THE CORPORATION COMMISSION

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Commissioners

GARY PIERCE – Chairman

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2012 MAR 21 P 12:11

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission  
**DOCKETED**

MAR 21 2012

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER  
COMPANY, LLC FOR APPROVAL OF A  
RATE INCREASE

DOCKET NO. W-04254A-08-0361

IN THE MATTER OF THE APPLICATION OF  
MONTEZUMA RIMROCK WATER COMPANY,  
LLC FOR APPROVAL OF A FINANCING  
APPLICATION

DOCKET NO. W-04254A-08-0362

**Motion to Deny Counsel's  
Notice of Withdrawal of  
Motion to Withdraw**

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**BY THE INTERVENER:**

On January 6, 2012, Mr. Douglas Fitzpatrick, counsel for **Montezuma Rimrock**, filed a motion to withdraw as counsel. In the motion, Mr. Fitzpatrick claimed that Intervener's excessive motions and requests for documents had resulted in "bills for legal services which are onerous to the water company" because the "*financial condition of the water company is tenuous.*" (Emphasis added)

Mr. Fitzpatrick alleged that Intervener had "engaged in abusive and unprofessional gamesmanship in an attempt to *run up attorneys fees* for the company that he knows *it can ill afford.*" (Emphasis added)

On January 11, 2012, a Procedural Order was issued denying Mr. Fitzpatrick's Motion to Withdraw. The order required **Montezuma Rimrock** by March 12, 2012 to obtain new counsel or resolve outstanding issues stemming from a harassment injunction **Montezuma Rimrock's** owner, Ms. Patricia Olsen, had in place against Intervener.

On March 9, 2012, **Montezuma Rimrock** filed a Notice of Replacement Counsel, stating the Todd C. Wiley of Fennemore Craig, P.C. would serve as counsel for **Montezuma Rimrock** in this matter.

On March 12, 2012, a Procedural Order was issued granting Mr. Fitzpatrick's motion to withdraw as counsel to **Montezuma Rimrock**.

On March 14, 2012, Mr. Fitzpatrick filed a Notice of Withdrawal of Motion to Withdraw in which he now seeks to return to the case as an associate of Mr. Wiley.

Intervener opposes Mr. Fitzpatrick's request to reenter this case as counsel to **Montezuma Rimrock** because it is not in the best interest of ratepayers for the Company to incur unnecessary legal fees that will result from two attorneys working on this matter.

**Montezuma Rimrock** is financially insolvent according to a sworn statement of its accountant. The company has incurred long term debt without required Commission approval for the purchase of property for Well#4 and the installation of pipeline totaling approximately \$68,000. The company has additional credit card debt of at least \$20,000.

Moreover, two months ago, Mr. Fitzpatrick stated in his Motion to Withdraw that **Montezuma Rimrock** could no longer even afford his services because of the alleged unprofessional actions of Intervener, who has done nothing more than seek Company records through properly filed Data Requests that Mr. Fitzpatrick has repeatedly refused to produce, even to this date.

How then, can **Montezuma Rimrock** now afford not just one attorney, but two?

Intervener respectfully moves the Commission to deny Mr. Fitzpatrick's motion to withdraw his notice to withdraw as counsel for **Montezuma Rimrock** and to keep in place the Commission's March 12, 2012 Order granting Mr. Fitzpatrick's motion to withdraw.

Dated this 21st Day of March, 2012



John E. Dougherty  
Intervener

Copies of the foregoing mailed  
This 21st day of March, 2012 to:

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